

REMARKS

Applicant has carefully reviewed the Application in light of the Office Action mailed October 16, 2007. At the time of the Office Action, Claims 1-32 were pending and rejected in the Application. Applicant amends Claims 1, 11, 21, 31 and 32 and without prejudice or disclaimer. The amendments to these claims are not the result of any prior art reference and, thus, do not narrow the scope of any of the claims. Furthermore, the amendments are not related to patentability issues and only further clarify subject matter already present. All of Applicant's amendments have only been done in order to advance prosecution in this case. Applicant respectfully requests reconsideration of the pending claims and favorable action in this case and, further, is hopeful of a full allowance of the pending claims.

Section 101 Rejections

The Examiner rejects Claims 21-30 under 35 U.S.C. § 101 because "the claimed invention is directed to non-statutory subject matter. Applicant hereby defers this issue until the substantive patentability of the pending claims is resolved. In the alternative, Applicant is certainly open to a suggested Examiner Amendment to cure this issue and comply with the ever-changing guidance from the USPTO in regards to § 101 issues.

Section 102 Rejections

The Examiner rejects Claims 1-6, 8, 11-16, 18 and 32 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Number 5,371,781 issued to Ardon (hereinafter "*Ardon*"). This rejection is respectfully traversed for the following reasons.

Applicant respectfully reminds the Examiner that a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.¹ In addition, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claims" and "[t]he elements must be arranged as required by the claim."² In regard to inherency of a reference, "[t]he fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish the

¹ *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987); MPEP §2131.

² *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989); *In re Bond*, 15 USPQ 2d 1566 (Fed. Cir. 1990); MPEP §2131 (*emphasis added*).

inherency of that result or characteristic.”³ Thus, in relying upon the theory of inherency, an Examiner must provide a basis in fact and/or technical reasoning to support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art.⁴

Currently, no reference of record, including *Ardon*, offers an architecture where “...the data [is communicated] to one or more endpoints of one or more users in the CPG for display to one or more users in the CPG, a display of the data to a first user in the CPG facilitating the first user *determining a current status of each of one or more second users* in the CPG to facilitate a decision by the first user regarding *whether to pick up the incoming phone call, whereby the endpoints can be identified by their respective IP addresses and the endpoints can communicate using a voice over IP protocol (VoIP).*” All of these limitations are provided for in Independent Claim 1, but no reference of record includes such elements.

The first limitation empowers a user to elect whether to take the incoming call based on the status of another user. This is significant, as it saves time and efficiently allocates responsibility in an expedited manner. The last limitation, which was added through amendment, effectively renders *Ardon* irrelevant, as the architecture of the pending claims is clearly more sophisticated than a crude phone answering system in year 1993.

For at least these reasons, Independent Claim 1 is allowable over any cited reference. The other Independent Claims recite limitations similar, but not identical, to those recited in Independent Claim 1. Therefore, these claims are also allowable, for example, for the same reasons as identified above. Additionally, the corresponding dependent claims from these Independent Claims are also patentably distinct for analogous reasons.

Section 103 Rejections

The Examiner rejects Claims 7, 9-10, 17, 19-31 under 35 U.S.C. § 103(a) as being unpatentable over *Ardon* in view of U.S. Publication No. 2004/0086102 issued to McMurry et al. (hereinafter “*McMurry*”). This rejection is now moot in light of the §102 analysis provided above.

³ MPEP §2112 (citing *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ 2d 1955, 1957 (Fed. Cir. 1993) (*emphasis in original*)).

⁴ MPEP §2112 (citing *Ex Parte Levy*, 17 USPQ 2d 1461, 1464 (Bd. Pat. at App. and Inter. 1990) (*emphasis in original*)).

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Thus, all of the pending claims have been shown to be allowable, as they are patentable over the references of record. Notice to this effect is respectfully requested in the form of a full allowance of these pending claims.

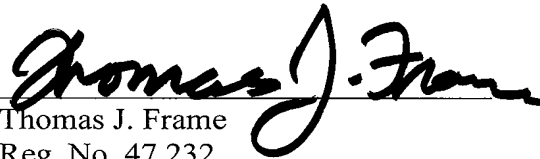
CONCLUSION

Applicant has now made an earnest attempt to place this case in condition for allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

Applicant believes no fees are due; however, if this is not correct the Commissioner is hereby authorized to charge any amount required or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

If there are matters that can be discussed by telephone to advance prosecution of this application, Applicant invites the Examiner to contact Thomas J. Frame at 214.953.6675.

Respectfully submitted,
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